

§ 34.2 Same; employer operating temporarily in another compensation district.

A deputy commissioner receiving a card report of the issue of a policy of insurance with the notation authorized by § 32.19 of this subchapter, will file such card report until he receives from the insured employer named therein a request for a certificate of compliance, giving the address of the employer within the compensation district of such deputy commissioner. Upon receipt of such a request the deputy commissioner will send the proper certificate of compliance to such employer at such address.

§ 34.3 Return of certificates of compliance.

Upon the termination by expiration, cancellation or otherwise, of a policy of insurance issued under the provisions

of said act and the regulations in this subchapter, or the revocation or termination of the privilege of self-insurance granted by the Bureau, all certificates of compliance issued on the basis of such insurance or self-insurance shall be void and shall be returned by the employer to the deputy commissioner issuing them with a statement of the reason for such return. An employer holding a certificate of compliance under an insurance policy which has expired, pending renewal of such insurance need not return such certificate of compliance if such expired insurance is promptly replaced. An employer who has secured renewal of insurance upon the expiration of a policy under said act or whose self-insurance thereunder is reauthorized without a break in the continuity thereof need not return an expired certificate of compliance.

SUBCHAPTER D—DISTRICT OF COLUMBIA WORKMEN'S COMPENSATION LAW

PART 41—GENERAL ADMINISTRATIVE PROVISIONS

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AUTHORITY: The provisions of this Part 41 issued under sec. 39, 44 Stat. 1442, 45 Stat. 600; 33 U.S.C. 939, 36 D.C. Code 501, 502, unless otherwise noted.

SOURCE: The provisions of this Part 41 contained in Regulations under the District of Columbia workmen's compensation law, May 31, 1938, unless otherwise noted. Redesignated at 13 F.R. 7670, Dec. 10, 1948.

§ 41.1 General administrative provisions; definitions; interpretation of statute.

(a) Every person subject to, claiming benefits under, or acting under, the provisions of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, as amended; 33 U.S.C. 901 et seq.) as made applicable to the District of Columbia by the act of Congress approved May 17, 1928 (45 Stat. 600; 36 D.C. Code 501, 502), shall conform to the procedure prescribed therein and in the regulations under this subchapter. Except where otherwise indicated, the references in this subchapter to sections

of the act will be to sections of the Longshoremen's and Harbor Workers' Compensation Act. The term "Bureau" as used in this subchapter means the Bureau of Employees' Compensation, United States Department of Labor. The said Bureau is the agency which was transferred from the Federal Security Agency to the United States Department of Labor by Reorganization Plan No. 19 of 1950 (3 CFR, 1949-1953 Comp., p. 1010; 64 Stat. 1271) effective May 24, 1950, the said Bureau having been established in the Federal Security Agency to perform the functions theretofore performed by the United States Employees' Compensation Commission, the latter having been abolished and its functions transferred to the Federal Security Agency by Reorganization Plan No. 2 of 1946 (3 CFR, 1943-1948 Comp., p. 1064; 60 Stat. 1095), effective July 16, 1946. The other definitions appearing in section 2 of the Longshoremen's Act, except the definitions of "employer" and "employee," shall be applicable with respect to the regulations promulgated under this subchapter. The responsibility for the administration of the said act is committed therein to the Bureau, which administers the act through a deputy commissioner appointed by it for the District of Columbia. Except in cases in which the said act otherwise requires, action upon claims shall be taken by the said deputy commissioner in conformity with law and the regulations in this subchapter. In the absence of controlling court decisions, the said deputy commissioner shall conform with the interpretation of the said act by the Bureau by regulation or otherwise, and such interpretation shall be binding upon him until held invalid by controlling judicial authority.

(b) The said act applies in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, irrespective of the place where the injury or death occurs. The term "employer" means every person carrying on any employment in the District of Columbia, and the term "employee" means every employee of any such person.

(c) The said act does not apply in respect to the injury or death of (1) a master or member of a crew of any vessel; (2) an employee of a common carrier by railroad when engaged in interstate or foreign commerce or commerce solely within the District of

Columbia; (3) an employee subject to the provisions of the act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, as amended; (4) an employee engaged in agriculture, domestic service, or any employment that is casual and not in the usual course of the trade, business, occupation, or profession of the employer; and (5) any secretary, stenographer, or other person performing any services in the office of any Member of Congress or under the direction, employment, or at the request of any Member of Congress, within the scope of the duties performed by secretaries, stenographers, or such employees of Members of Congress. (1950 Reorg. Plan No. 19, § 1, 3 CFR, 1949-1953 Comp., p. 1010; 64 Stat. 1271) [4 F.R. 1699, Apr. 27, 1939, as amended at 25 F.R. 10794, Nov. 15, 1960]

§ 41.2 Report by employer of injury or death.

Within 10 days from the date of any injury or death or from the date that the employer has knowledge of a disease or infection in respect of such injury, or from the date the employer has knowledge of the injury or of any disease proximately caused by the employment or of death of an employee within the purview of said act, the employer shall send to the deputy commissioner, upon a form prescribed for that purpose by the Bureau, a report of such injury or disease, giving the particulars thereof. Where the injury or disease results in death, the employer, immediately upon learning of the death, shall furnish, on a form prescribed by the Bureau for that purpose, a supplemental report of the death. The employer shall, at the times and in the manner required, submit such additional reports in respect of the injury or death of his employee as the deputy commissioner may request.

§ 41.3 Notice of injury or death.

Within 30 days after the date of injury or death, notice thereof shall be given by the person claiming compensation or by some one on his behalf to the deputy commissioner, and for such purpose a form has been adopted by the Bureau which shall be furnished upon application therefor made to the deputy commissioner.

§ 41.4 Claims for compensation.

A claim for compensation may be filed with the deputy commissioner at any time after the first seven days of disability following any injury, or at any time after death. The right to compensation for disability shall be barred unless a claim therefor is filed within 1 year after the injury, and the right to compensation for death shall be barred unless a claim therefor is filed within one year after the death, except that if payment of compensation has been made without an award on account of such injury or death, a claim may be filed within 1 year after the date of the last payment, and except that where the said act provides for the running of the said year limitation from any other date, the provisions of said act shall apply. For the purpose of filing such claims the Bureau has provided separate forms for use in injury and death cases which shall be furnished to any person desiring to file such a claim, upon application therefor made to such deputy commissioner.

(Sec. 19(a), 44 Stat. 1435; 33 U.S.C. 919(a))

§ 41.5 Notification of employer; action thereafter by employer.

Within 10 days after the filing of a claim for compensation for injury or death under said act the deputy commissioner shall give written notice to the employer or insurance carrier, served personally or by registered mail, that such claim has been filed and shall call upon such employer or carrier to provide for the payment of compensation in accordance with the provisions of section 14 of said act, as well as to furnish other benefits provided for by said act, or, if the claim will be controverted, to give notice to that effect as provided by section 14(d) of said act (44 Stat. 1433; 33 U.S.C. 914(d)) upon the form provided for that purpose by the Bureau, and to file answer to the claim upon the form provided by the Bureau for that purpose, such answer, properly executed, to be filed with the deputy commissioner within 10 days from the date the employer or carrier receives such notice. The answer shall be made in duplicate, the original to be filed with the deputy commissioner and the duplicate to be served upon the claimant either personally or by mailing it to the address given in the claim.

(Sec. 19 (b), 44 Stat. 1435; 33 U. S. C. 919 (b))

§ 41.6 Withdrawal of claim for compensation.

Any claimant not desiring to proceed with a claim filed in case of injury or death pursuant to said act and the regulations in this subchapter, may apply for withdrawal of the claim to the deputy commissioner, stating the reason for such withdrawal. The deputy commissioner, whose jurisdiction has been invoked by the filing of such claim, shall in consideration of such application determine whether such withdrawal is for a proper purpose and for the claimant's best interest prior to authorizing such withdrawal. Any claim so withdrawn is withdrawn without prejudice to the filing of another claim subject to the provisions relating to the limitation of time in section 13 of said act.

(Sec. 32, 44 Stat. 1439; 33 U. S. C. 932)

§ 41.7 Prehearing conferences.

(a) In order to expedite and simplify formal administrative proceedings, in all cases in which there are issues of fact or law, and, whenever practicable, no formal hearings will be set until after prehearing conferences. Such conferences may be held by the deputy commissioner, assistant deputy commissioner, a claims examiner or other person designated for such purpose by the deputy commissioner or the assistant deputy commissioner.

(b) The purposes of such prehearing conferences are (1) amicably to dispose of controversies wherever possible; (2) to narrow issues; and (3) to simplify the subsequent methods of proof.

(c) Prehearing conferences may be set upon 10 days' notice to the parties in interest (or a longer period if the circumstances require, or shorter period if agreed upon by the parties). They shall be kept characteristically informal, and shall not be stenographically reported. It shall be the duty of the deputy commissioner, assistant deputy commissioner, claim examiner or other person in charge of the conference to guide the discussion toward the achievement of the purposes of such conference, giving the parties the benefit of his specialized knowledge and experience.

(d) At the termination of such conferences the person in charge thereof shall prepare stipulations, for the signatures of the parties, covering agreements as to all or part of the facts, admissions, narrowing of issues, or simplification of methods of proof. Such stipulations

when signed by the parties in interest shall be made and become part of the formal record of the case. Where stipulations relate to evidence to be used at a later formal hearing, such evidence may then be received as such evidence and appropriately identified by marking such evidence, respectively, as claimant's or respondent's exhibits, consecutively numbered in each respect. At the termination of such a conference, the person in charge thereof shall prepare for the file in the case a memorandum setting forth the purpose for which the conference was held, the matters discussed and the results achieved. Should a conference terminate without complete achievement of the purpose thereof, and the remaining issue or issues be of such character as not to present a difficult basis for adjustment by amicable agreement of the interested parties, the person in charge, after review of the record of the case, may by letter addressed to the parties in interest make his recommendation to dispose of the matter in controversy, setting a date for reply thereto. Every such letter should advise the interested parties that the purpose thereof is to recommend a basis for agreement, upon such issue or issues, as appears from review of the information contained in the current record of the case, and that such recommendation is not a "decision" in the case and will not affect or prejudice the rights of any party, or the further adjustment of the case, should the recommendation not be accepted by such parties and a later hearing be found necessary.

(Sec. 23 (b), 44 Stat. 1437; 33 U. S. C. 923 (b)) [13 F.R. 7670, Dec. 10, 1948]

§ 41.8 Preparation of record of hearing before deputy commissioner.

Hearings before the deputy commissioner shall be open to the public and shall be stenographically reported. One original and one copy (first carbon) of the transcript of testimony taken at a hearing will be made for official purposes; the deputy commissioner shall file the original with the record of the case and shall transmit the copy to the Bureau. The transcript of testimony shall conform with specifications prepared by the Bureau and the original and the copy, at the end thereof, shall contain the certification of the reporter as to the date and place of the reporting and that the transcript contains a true and full report of the particular proceedings. All

testimony and colloquy at a hearing shall be reported unless the deputy commissioner otherwise directs, in which event he shall state for the record the reason for the omission. The reporter shall receive instructions only from the deputy commissioner as to the testimony to be reported, the making-up of the record, adjournment, and like matters.

(Sec. 23 (b), 44 Stat. 1437; 33 U. S. C. 923 (b))

§ 41.9 Contents of record of hearings; issues.

The transcript of testimony shall show at the outset the basis for the hearing; that is, whether upon the claim of the beneficiary for compensation, whether upon an application for review under section 22 of said act (44 Stat. 1437; 33 U. S. C. 922), whether for a supplementary compensation order under section 18 of said act (44 Stat. 1434; 33 U. S. C. 918), or otherwise, with the date thereof. The names of the parties and the particulars of the claim or application shall be stated in the record. The transcript shall then show the admissions and denials of record, and the respective parties shall be required to state the issues with respect to which they desire to be heard. The evidence to be received shall be material to such issues. Any party confronted at a hearing with an issue with respect to which he has not received at least 10 days' notice may upon request to the deputy commissioner be granted a continuance with respect to a hearing of such issue. No witness shall testify except upon oath or affirmation. All evidence upon which the deputy commissioner relies for his action shall be contained in the transcript of testimony either directly or by appropriate reference, and exhibits, medical reports, and other papers, either in whole or in material parts, shall when practicable be incorporated into such record, preferably as appendices. When evidence is given by sign, symbol, or gesture, the deputy commissioner shall state fully for the purposes of the record the import of such evidence. The deputy commissioner shall conduct the hearing so as not to burden the record with extraneous evidence or discussions, and shall eliminate reporting of legal or other argument; the parties in interest, however, may state for the record in a succinct manner their position as to any question of law or fact. At the close of the hearing the deputy commissioner shall state

whether the hearing is adjourned sine die or otherwise.

(Sec. 23 (b), 44 Stat. 1437; 33 U. S. C. 923 (b))

§ 41.10 Certification of record for use in court proceedings.

Whenever the record of a case before the deputy commissioner shall be required for review or otherwise by any court having jurisdiction under said act, the deputy commissioner shall transmit such record with a certification thereof over his signature as the record in his official custody. Such certification shall list each transcript of testimony and other papers included in the certification.

(Sec. 23 (b), 44 Stat. 1437; 33 U. S. C. 923 (b))

§ 41.11 Form of compensation orders; service thereof.

(a) Orders adjudicating claims for compensation or suspending payments of compensation shall be designated by the term "compensation order" followed by a descriptive phrase designating the particular type of such order, such as "award of compensation", "rejection of claim", "suspension of compensation", "modification of award". All compensation orders shall contain the name of the Bureau and Agency, the designation of the compensation district, the names of the parties in interest, a statement of the basis for the order (that is, whether upon a claim, an application for suspension of compensation, an application for modification of award, etc., with a statement by whom made, and whether a hearing was held or applied for), findings of fact, an award, rejection, or other appropriate paragraph containing the action of the deputy commissioner, and appended thereto shall be a paragraph headed "proof of service", containing the certification of the deputy commissioner that a copy of the compensation order was on a date stated sent by registered mail, with the names and addresses of the parties to whom sent. Compensation orders shall be signed by the deputy commissioner at two places, (1) following the action paragraph, and (2) following the certification under the "proof of service".

(b) Copies of compensation orders shall be served personally or by registered mail upon the claimant, the employer and the insurance carrier at the last known address of each.

§ 41.12 Contents of findings of fact.

(a) All original compensation orders shall contain, in the paragraph headed "findings of fact", findings with respect to the names and addresses of the parties in interest, the date and place of injury or alleged injury, the circumstances surrounding the accident or alleged accident, the nature and extent of the injury or alleged injury, notice of injury or death, the average weekly wage and such other facts as may be necessary to determine all of the issues raised before the deputy commissioner upon the hearing of the case or otherwise, but in case of rejection of the claim the deputy commissioner may in his discretion omit any finding unnecessary to support such action. In all death cases the dates of birth of each claimant shall be found in the compensation order; in such cases involving aliens, findings with respect to such alienage shall be made. In cases in which the claim is rejected, the ground for such rejection shall be stated in a paragraph following the findings of fact. Where failure to give notice of injury or death is excused pursuant to the provisions of section 12 (d) of said act (44 Stat. 1432; 33 U. S. C. 912 (d)), the fact of such excuse together with the ground thereof shall be stated in the compensation order.

(b) In compensation orders other than the original order the statement of the basis for the order shall contain reference to all prior compensation orders with the dates thereof. In such orders the findings of fact shall relate only to the immediate issues before the deputy commissioner, without restatement of facts found in any prior compensation order relating to the same injury or death, unless necessary for the completeness of the compensation order.

(c) Findings of fact shall be stated positively; that is, without equivocation or qualification. All ultimate facts necessary to support the action of the deputy commissioner shall be found. Recitals of evidence, statements of opinion, and citations to authorities shall be avoided in a compensation order.

(d) The findings of fact may contain, in addition to the ultimate facts necessary to support the action of the deputy commissioner upon the issues before him, findings relating to services rendered on behalf of the claimant by his authorized representative, and relating to the approval of bills for medical treatment and

other attendance or treatment authorized to be obtained by an employee under the provisions of section 7 of said act (44 Stat. 1427; 33 U. S. C. 907).

§ 41.13 Supplementary compensation orders.

(a) In any case in which the employer or insurance carrier is in default in the payment of compensation, due under any award of compensation, for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within 1 year after such default, make application in writing to the deputy commissioner for a supplementary compensation order declaring the amount of the default. As a part of the procedure prescribed in section 18 of said act (44 Stat. 1434; 33 U. S. C. 918), the deputy commissioner shall serve notice upon the employer or insurance carrier of such application and at the same time shall call upon such employer or carrier for submission to the deputy commissioner, under the provisions of section 14 (1) of said act (44 Stat. 1434; 33 U. S. C. 914 (1), of evidence of the payment of compensation, in the form of receipts or otherwise, for inspection by the deputy commissioner. This evidence or copies or transcripts thereof may be incorporated in the record of the case as basis for action upon the application.

(b) Such a supplementary compensation order shall show (1) as the basis for the order a recital relative to the application and date thereof, (2) a recital that upon due notice to the parties in interest an investigation or hearing with respect to the application was had or made, or that no hearing was applied for or deemed necessary by the deputy commissioner, (3) a recital, in the findings of fact, of the fact and date of filing of the compensation order upon which the application is based, quoting the award paragraph thereof, (4) a finding that the employer and insurance carrier failed to comply therewith (in whole or in part as found by the deputy commissioner), (5) a finding that a stated aggregate amount of compensation covering a stated period of disability was not paid within 30 days after it became due and payable under the award, and is, therefore, declared to be in default for more than 30 days, (6) (in the discretion of the deputy commissioner as indicated in said section 18) a recital that as provided under section 18, the whole of the award, namely, \$-----

(which will be the sum of all the installments as found in the prior compensation order), is declared in default, and (7) (when applied for) a further recital that compensation in the sum of \$----- was not paid within 10 days after it became due under the terms of the award, and that therefore pursuant to the provisions of section 14 (f) there is due and payable to the claimant by the employer and carrier 20 percent of such sum, or the sum of \$-----, which is in addition to such compensation. The findings of fact shall be followed by an award embodying the action of the deputy commissioner, and the statement relating to proof of service as provided for compensation orders in § 41.11.

§ 41.14 Interlocutory matters to be disposed of without formal orders.

Compensation orders or other formal orders shall not be made or filed with respect to interlocutory matters of a procedural nature arising during the pendency of a compensation case.

§ 41.15 Application for review of a compensation case for modification of award; procedure.

(a) Every application to the deputy commissioner for review of a compensation case for modification of an award shall state specifically the ground or grounds under section 22 of said act (44 Stat. 1437; 33 U.S.C. 922) upon which the applicant relies, with the particulars in respect of the application of such ground or grounds in his case. Such application shall be supported by medical reports, affidavits or other appropriate evidence. Such applications and supporting papers shall be submitted in duplicate so that one copy thereof may be transmitted to the opposing party. Both original and duplicate shall be signed by the applicant and by his attorney or representative if he has one, and the duplicate shall be transmitted by the deputy commissioner to the opposing party.

(b) The procedure in respect of an application for review of a compensation case for modification of an award shall be the same as that prescribed in respect of claims in section 19 of said act (44 Stat. 1435; 33 U. S. C. 919).

§ 41.16 Commutation of payments.

Applications for commutation of future payments of compensation shall be made to the deputy commissioner on the form provided by the Bureau for that purpose.

If the deputy commissioner determines that an award of a lump sum payment of such compensation would be in the interest of justice, he shall submit such application, together with the reasons in support of such determination, to the Bureau for its consideration. Commutation of such payments will be approved in disability cases only where the quality of the disability is permanent or the compensation period is determinable and will be made only in cases in which a compensation order has been filed which finds the character and quality of the disability. Commutation of death benefits will be approved in death cases only when it appears that the rights of all probable or potential beneficiaries have been determined and after a compensation order has been filed fixing the right of the beneficiary on whose behalf such compensation is sought. The computation of all commutations of such compensation will be made by the Bureau and for such purpose the deputy commissioner shall transmit his file in the particular case. For this purpose the deputy commissioner shall ascertain and furnish to the Bureau the date of birth of the person on whose behalf commutation is sought, as well as the date upon which such commutation shall be effective.

§ 41.17 Same; aliens not residents or about to become non-residents.

Applications under section 9(g) of said act (44 Stat. 1430; 33 U.S.C. 909(g)) for commutation of future payments of compensation awarded to aliens not residents (or about to become non-residents) of the United States or Canada shall be made to the deputy commissioner, who shall in turn transmit such application promptly to the Bureau. Such commutation shall be made as of the date such application is received by the deputy commissioner, or such later date as the application may show to be proper. No such commutation shall be made with respect to a person journeying abroad for a visit who has previously declared a definite intention to return and has stated a time for returning. No such commutation shall be made except upon the basis of a compensation order fixing the right of the beneficiary to compensation.

§ 41.18 Compensation from special fund in cases of permanent disability.

In any case in which an employee receives an injury which would of itself

cause only permanent partial disability, but which when combined with disability resulting from a previous unrelated injury does in fact cause permanent total disability or disability less than permanent total so that the case would be one within the purview of section 8 (f) of said act (44 Stat. 1429; 33 U. S. C. 908 (f)), the deputy commissioner shall in a compensation order find separately the facts relating to each injury and shall find the extent of the employee's disability resulting from each injury and shall make an award against the employer only for the results of the subsequent injury. Upon the cessation of payments of compensation for such disability, the case, if one involving permanent total disability, shall be transmitted to the Bureau for consideration of an award by it out of the special fund established in section 44 of said act (44 Stat. 1444; 33 U. S. C. 944). The deputy commissioner will not make an award of compensation to be paid from the special fund. Awards from the special fund will not be made in cases in which an injury increases or aggravates disability due to disease, congenital defects or causes other than a prior injury; in such cases the employer is liable for compensation for all of such increased or aggravated disability, and the deputy commissioner will make his award accordingly.

§ 41.19 Maintenance for employees undergoing vocational rehabilitation.

Awards of additional compensation for the purpose of maintenance of an employee undergoing vocational training at the direction of the Bureau, under the provisions of section 8 (g) and section 39 (c) of said act (44 Stat. 1429, 1443; 33 U. S. C. 908 (g), 939 (c)), shall be made only by the Bureau. For this purpose the Bureau may require investigations by the deputy commissioner with respect to any case and the recommendation of the deputy commissioner as to the propriety and need for such maintenance.

§ 41.20 Representatives of parties in interest and fees for services.

(a) Any party in interest, whether claimant, employer or insurance carrier, may be represented before the deputy commissioner by any person previously authorized in writing for such purpose. Any attorney in good standing, admitted to the bar of the District of Columbia,

may when so authorized appear as attorney in respect of a claim under said act. For good cause shown, the deputy commissioner may, after opportunity to be heard and subject to the approval of the Bureau, bar any such representative from further appearance before him in any such proceeding.

(b) No claim for legal or other services rendered in respect of a claim or award for compensation, to or on account of any person, shall be valid unless approved by the deputy commissioner, and any claim so approved shall, in the manner and to the extent fixed by the deputy commissioner, be a lien upon such compensation. No contract for a stipulated fee or for a fee on a contingent basis will be recognized by the deputy commissioner, and no fee for services shall be approved except upon an application to the deputy commissioner supported by a sufficient statement of the extent and character of the necessary work done on behalf of the claimant. Except where the claimant has been advised that such representation will be rendered gratuitously, the fee approved by the deputy commissioner shall be reasonably commensurate with the actual necessary work performed by such representative, taking into account the capacity in which the representative has appeared, the amount of compensation involved and the circumstances of the claimant.

(c) Any person (1) who receives any fee, other consideration, or any gratuity on account of services so rendered, other than the fee approved by the deputy commissioner, or (2) who makes it a business to solicit employment for another person or for himself in respect of any claim or award for compensation may be certified to the United States attorney for prosecution under section 28 (b) of said act (44 Stat. 1438, 33 U. S. C. 928 (b)).

§ 41.21 Availability of records for inspection.

Any party in interest may be permitted to examine the record of the case in which he is interested. The deputy commissioner, however, shall be the judge of the reasonableness of any such request and may in his discretion deny inspection of any such record or part thereof which in his opinion may result in damage or harm to the beneficiary or to any other person, or which may be inimical to the interests of the Bureau or of the United States. The original record in any such case shall not be removed

from the office of the deputy commissioner for such inspection.

§ 41.22 Employer's record of injury or death.

Every employer shall keep a record in respect of any injury to an employee. The record shall contain information of disease, other disability, or death in respect of such injury and shall be available to inspection by the Bureau or by any State authority.

(Sec. 29, 44 Stat. 1438; 33 U. S. C. 929)

§ 41.23 Transfer of cases.

(a) At any time after a claim has been filed with him, the deputy commissioner may, with the approval of the Bureau, transfer such case to any other deputy commissioner for the purpose of making investigation, taking testimony, making physical examinations or taking such other necessary action therein as may be directed.

(b) Request for approval of such a transfer of a case may be made by letter to the Bureau in which the deputy commissioner shall set forth fully the purpose of such transfer. If such transfer should be approved by the Bureau, the deputy commissioner making the transfer shall by letter to the deputy commissioner to whom the case is transferred, give such advice, comments, suggestions or directions as may be needed under the circumstances of the particular case, transmitting to the Bureau a copy of such letter. The file of the deputy commissioner, including transcripts of testimony, may be sent to the deputy commissioner to whom the case is transferred, if necessary, for proper action by him. All official papers should be sent by registered mail.

[4 F.R. 1699, Apr. 27, 1939]

§ 41.24 Assessment of civil penalties.

In any case under said act in which a civil penalty is provided for in which it should appear that there has been a failure to perform a statutory obligation, for which failure the said act subjects an employer or carrier to the imposition of a civil penalty, the deputy commissioner shall make full report to the Bureau of the facts relating to such apparent failure and shall therein make his recommendation as to the assessment of such penalty. The Bureau upon ascertaining that there has been such failure will call upon the offending employer or carrier to show cause, within a reasonable time

stated, why such civil penalty should not be assessed by the Bureau.

§ 41.25 Agreed settlements.

(a) In cases under section 8(c) (21) and section 8(e) of said act, whenever the deputy commissioner determines that it is for the best interests of an injured employee entitled to compensation, he may, with the approval of the Bureau, approve agreed settlements of the interested parties, discharging the liability of the employer for such compensation, notwithstanding the provisions of section 15(b) and section 16 of said act: *Provided*, That the sum so agreed upon shall be payable in installments as provided in section 14 (b) of said act, which installments shall be subject to commutation under section 14 (j) of said act: *And provided further*, That if the employee should die from causes other than the injury after the Bureau has approved an agreed settlement, the sum so approved shall be payable, in the manner herein prescribed, to and for the benefit of the persons enumerated in section 8 (d) of said act.

(b) Application for approval of an agreed settlement under section 8 (i) of the said act shall be made in writing to the deputy commissioner by the parties in interest. The application shall set forth fully all facts necessary to disclose the status of the case and the reason for seeking approval of an agreed settlement under said section, as well as the specific terms of such agreed settlement, and shall be accompanied by a report of examination of the employee, if a recent report is not of record in the office of the deputy commissioner. Such application, including all supporting papers, shall be submitted in duplicate.

(c) If the case is one coming within the purview of section 8 (c) (21) or section 8 (e) of said act, and the deputy commissioner should determine that the proposed agreed settlement according to such application is for the best interests of the injured employee, the deputy commissioner shall transmit to the Bureau a copy of the proposed agreed settlement, together with a statement of his recommendation to such effect. The deputy commissioner shall transmit to the Bureau his complete file in the case. If the disability as found in the last compensation order filed in the case is not of such character and quality as to bring the case within the purview of section 8 (c) (21) or section 8 (e), the dep-

uty commissioner shall file a compensation order making necessary findings of fact relative to the character and quality of disability and to the current wage-earning capacity of the employee. If such course is not practical, the deputy commissioner may in his communication advise the Bureau with respect to the probable character and quality of disability according to the most recent evidence received and shall inform the Bureau of the probable current wage-earning capacity of the employee. With such recommendation the deputy commissioner shall submit such other information as may bear upon the advisability of approving the agreed settlement.

(d) Section 8 (i) was intended to furnish a legal basis for agreement as to the payment of compensation for probable future disability, principally in cases in which the symptoms of disability are largely subjective, the extent of loss of wage-earning capacity due to such disability is difficult to determine, and where the compensation rate is likely to fluctuate and be subject to change over long periods of time. This section was not intended to furnish generally a basis for the settlement of claims or as a mere convenience in disposing of cases. [4 F.R. 1700, Apr. 27, 1939]

PART 42—AUTHORIZATION OF INSURANCE CARRIERS

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| Sec. | |
| 42.1 | Types of companies which may be authorized by the Bureau. |
| 42.2 | Applications for authority to write insurance; how filed; evidence to be submitted; other requirements. |
| 42.3 | Stock companies holding Treasury certificates of authority. |
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| 42.11 | Submission of new forms of policies for approval; other endorsements. |
| 42.12 | Term of policies. |
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| 42.14 | Discharge by the carrier of obligations and duties of employer. |
| 42.15 | Report by carrier of issuance of policy or endorsement; form. |